



## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### **Agency Information Collection Activities: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Program and WIC Farmers' Market Nutrition Program (FMNP) Waivers**

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on a proposed information collection. This collection is a new information collection for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and WIC Farmers' Market Nutrition Program (FMNP) which contains the reporting burden associated with requesting waivers of WIC and WIC FMNP Program requirements as authorized under the American Rescue Plan Act of 2021 and the American Baby Formula Act of 2022. In order to receive waivers authorized by these statutes, WIC and WIC FMNP State agencies must submit a request that establishes that they have met the requirements for a waiver.

**DATES:** Written comments must be received on or before [INSERT DATE THAT IS 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The Food and Nutrition Services, USDA, invites interested persons to submit written comments.

- Preferred Method: Federal eRulemaking Portal. Go to <http://www.regulations.gov> and follow the online instructions for submitting comments electronically.
- Mail: Send comments to: Allison Post, Chief, WIC Administration, Benefits, and Certification Branch, Policy Division, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314.

- Email: email comments to Allison.Post@usda.gov

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this information collection should be directed to Allison Post at (703) 457-7708 or Allison.Post@usda.gov.

**SUPPLEMENTARY INFORMATION:**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Program and WIC Farmers' Market Nutrition Program (FMNP) Waivers.

Form Number: Not applicable.

OMB Number: 0584-NEW.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: Recently, USDA received legislative authority to grant waivers to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and WIC Farmers' Market Nutrition Program (FMNP) State agencies. The American Rescue Plan Act of 2021 (ARPA; Pub. L 117-2) grants temporary waiver authority to WIC and WIC FMNP for the purpose of outreach, modernization, and innovation and The Access to Baby Formula Act of

2022 (ABFA; Pub. L 117-129) grants permanent waiver authority to WIC during certain emergencies and supply chain disruptions. This burden collection covers activities associated with the waiver request process.

#### *American Rescue Plan Act of 2022*

On March 11, 2021, President Biden signed into law the American Rescue Plan Act of 2021 (ARPA; Pub. L 117-2). ARPA amends Section 17 of the Child Nutrition Act of 1966 (CNA; Pub. L 111-296) to provide WIC and WIC FMNP \$390 million through FY 2024, to carry out outreach, innovation, and program modernization efforts, including appropriate waivers and flexibilities, to increase participation and redemption of benefits. The waiver authority provided under ARPA does not apply to the content of the WIC food packages, funding or regulatory nondiscrimination requirements. In order to request and utilize approved waivers under the authority of ARPA, WIC and WIC FMNP State agencies will be required to perform administrative tasks that will contribute to their reporting burden hours.

ARPA waivers are intended to provide flexibility to WIC and WIC FMNP State agencies as they carry out outreach, innovation, and program modernization efforts. In coordination with ARPA-funded projects, FNS anticipates that WIC and WIC FMNP State agencies will request waivers that will allow them to implement the grant-funded projects. Additionally, FNS anticipates that WIC and WIC FMNP State agencies will be interested in testing modernization projects that will not require funding, such as extending WIC certification periods to align household certification periods. FNS will offer three types of waivers to State agencies under ARPA's authority: (1) waivers requiring additional information, (2) accelerated waivers, and (3) ad hoc waivers.

Waiver requests requiring additional information are waivers identified and pre-cleared by FNS as allowable under ARPA's waiver authority for State agencies to request but require State agencies to provide supplemental information to support their request. These waiver requests are estimated to take 1 hour to complete. FNS estimates that all 89 WIC State agencies and 51 WIC FMNP State agencies will request an average of 5 waivers requiring additional information

annually. Like waiver requests requiring additional information, accelerated waivers are waivers identified and pre-cleared by FNS as allowable under ARPA's waiver authority. Unlike waiver requests requiring additional information, these waivers will not require State agencies to submit additional information along with their request. It is estimated that State agencies will take 10 minutes to fill out a request form for an accelerated waiver. FNS estimates that all 89 WIC State agencies and 51 WIC FMNP State agencies will request an average of 4 accelerated waivers annually. Finally, FNS will also offer additional, novel waivers at the request of the State agency that do not fall under the waivers requiring additional information and accelerated waivers as they have not already been identified and pre-cleared by FNS as allowable under ARPA's waiver authority. These ad hoc waivers will meet the specific needs of the State agency to implement innovative and modern WIC and WIC FMNP enhancements. It is estimated that the ad hoc waiver requests will take 2 hours to complete. FNS anticipates that 10 WIC State agencies and 5 WIC FMNP State agencies will request an average of 1 ad hoc waiver annually. The estimated total burden for ARPA waiver requests is 823.52 burden hours.

#### *Access to Baby Formula Act of 2022 Waiver Authority*

On May 21, 2022, President Biden signed into law the Access to Baby Formula Act of 2022 (ABFA; Pub. L 117-129). ABFA amends section 17 of the CNA to establish waiver authority for the Secretary of Agriculture to address certain emergencies, disasters, and supply chain disruptions impacting WIC.

USDA has authority under ABFA to waive or modify any statutory requirement under section 17 of the CNA or any regulatory requirement, provided that the following two conditions are met: 1) such requirements cannot be met by WIC state agencies under the conditions that prompted either the emergency period or the supply chain disruption, including a supplemental food product recall, and 2) exercising the waiver authority is necessary to serve participants and does not substantially weaken the nutritional quality of supplemental foods. ABFA also provides USDA with the ability to issue the waiver or modification to multiple WIC State agencies or on a

nationwide basis.

To request and utilize approved waivers under the authority of ABFA, WIC State agencies will be required to perform administrative tasks that will contribute to their reporting burden hours. FNS estimates that 10 WIC State agencies will request an average of three waivers each in response to emergencies, disasters, and supply chain disruptions. It is estimated that State agencies will take 15 minutes to fill out one request form. The estimated total burden is 7.5 burden hours.

Affected Public: State and Tribal government. Respondent groups include WIC and WIC FMNP State agencies (including Indian Tribal Organizations and U.S. Territories).

Estimated Number of Respondents: The total estimated number of respondents is 140 for the proposed information collection request associated with OMB Number 0584- NEW. This includes: 89 WIC State agencies and 51 WIC FMNP State agencies.

Estimated Number of Responses per Respondent: The total estimated number of responses per respondent for this collection is 9.32.

Estimated Total Annual Responses: The total estimated number of responses is 1,305 for the proposed information collection request associated with OMB Number 0584-NEW.

Estimated Time per Response: The estimated time per response averages .64 hours across waiver types. For the reporting burden, the estimated time per response varies from approximately 10 minutes to 2 hours depending on the waiver type being requested.

Estimated Total Annual Burden on Respondents: The estimated total for reporting burden is 831 hours.

See the table below for more detail on the estimated total annual burden.

<i>WIC and WIC FMNP Waiver Burden Table - OMB# 0584-NEW</i>						
<b>Affected Public</b>	<b>Instruments</b>	<b>Est. No. of Respondents</b>	<b>No. of Responses per Respondent</b>	<b>Total Annual Responses</b>	<b>Est. Total Hours per Response</b>	<b>Est. Total Burden</b>
<i>ARPA</i>						
WIC State Program Staff	Accelerated waivers	89	4	356	0.17	59.45
WIC State Program Staff	Waivers requiring additional information	89	5	445	1	445.00
WIC State Program Staff	Ad hoc waivers	10	1	10	2	20.00
WIC FMNP State Program Staff	Accelerated waivers	51	4	204	0.17	34.07
WIC FMNP State Program Staff	Waivers requiring additional information	51	5	255	1	255.00
WIC FMNP State Program Staff	Ad hoc waivers	5	1	5	2	10.00
<b>Subtotal ARPA Reporting</b>		<b>140</b>	<b>9.11</b>	<b>1275</b>	<b>0.65</b>	<b>823.52</b>
<i>ABFA</i>						
WIC State Program Staff	Waiver request form	10	3	30	0.25	7.5
<b>Subtotal ABFA Reporting</b>		<b>10</b>	<b>3</b>	<b>30</b>	<b>0.25</b>	<b>7.5</b>
<b>Grand Total Reporting Burden</b>		<b>140</b>	<b>9.32</b>	<b>1305</b>	<b>0.64</b>	<b>831.02</b>

**Tameka Owens,**  
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